A SOCIO-LEGAL STUDY OF CHILD LABOUR WITH SPECIAL REFRENCE TO AURANGABAD DISTRICT

Ph.D. Synopsis Submitted

To

Swami Ramanand Teerth Marathwada University, Nanded.

Submitted by

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❖ INTRODUCTION

Today we are facing lot of social problems which are destroying our society and humanity. Child labour is one of the most common problems in Asia and in India. The demand of child labour has taken a disadvantage of poverty, illiteracy and population. Sometimes it results of ingrained and traditions. One thing is rooted in poor society that only poverty is reason behind child worker. But the truth is that, all the poor children are not child workers, it means these poor people who know the importance of the education; their children are not child labour.

Child refers to the employment of children in any work and that deprives them of their childhood interferes with their ability to attend regular school and that is mentally, physically, or morally, socially dangerous and harmful. According to article 23 of the constitution any type of forced labour is prohibited. Article 24 says that, A child under 14 years cannot be employed to perform any hazardous work. Article 39 says about the tender age of children are not used. There are various laws that are made for this purpose such as child labour (prohibition and regulation) Amendment Act 2016 prohibits the employment of children below 14 years in all employment and with the provisions for prohibition of employment of adolescents (14 to 18) in scheduled hazardous occupations and process.

The issue of child labour cannot be dealt until and unless concerned organizations influence appropriate Government authorities. The Government has to consider this and bring policies in accordance therewith. Child labour restrict the right of children to access and benefits from education and denies the fundamental opportunity to attend school. It prejudices children education and adversely affects their health and safety.

The present study deals with the Socio legal aspect of the child labour. It also deals with factors which cause to promote child labour other than poverty such as social and religious factor and even geographic factor. In spite of having various international instruments, constitutional provisions, both as fundamental rights and directive principles of state policies, legislation and Government programs, practice of child labour is perpetuating even after attaining years of

independence. This problem has become a harsh reality on local and national level which violates human rights of children.

❖ STATEMEMT OF PROPOSED PROBLEM

Child labour practice is a hindrance to the mental as well as physical development of children as it deprives them of the most important phase of their life. For this purpose there is a need of strong system to dealing with released children in terms of rehabilitant and repatriating them with the family with certain support to the family, to come out of the poverty trap.

There are number of laws has been made to eradicate but still there is a need to clarity of age of child workers in organized and unorganized sectors of employment. The existing laws should be amended to set of specific duties and responsibilities for law enforcement agencies to ensure effective implementation in both sectors. There is a need of broad and specific framework for prevention, prohibition, rescue and rehabilitation of children with the help of legal machinery and NGO. In the long run child labour perpetuates household poverty through lower human capital. Child labour and schooling are not necessarily exclusive schooling may not lead to accumulation of human capital.

In short, run child labour increases household's income and probability of survival and economic development has only worsen in this situation.

❖ SIGNIFICANCE OF PROPOSED PROBLEM

There are various laws and regulations made for the prohibitions of child labour but it creates loophole as it is difficult to keep a check on children working in their homes and finding out whether they are helping their parents or working to supplement the family income. In this situation child workers should be strictly prohibited in all the sectors and arrange other factor to help the child workers family. It also focuses on statistics data which collect by the organized sector and failing of legal machinery in those sectors.

There are so many legislations provided for the protection of children, various laws are against child labour which bans the employment of children below the age of 14 years in many employments. But, it does not ban in agriculture sector, household workers, dhaba because of absence of proper

compliance of laws, illiteracy and ignorance in public, the child labour practice is continuing. In villages, it is a common sight to see children of poor families working in fields or elsewhere to contribute to the family income such children are deprived of opportunity of education.

Child labour is a global phenomenon and number of children are working in worst forms of child labour. This same situation in Aurangabad district and nearby areas prevailed. It is serious violation of fundamental right of children so it is needed to withdraw children from work and send them back to school. Without any kind of excuses on the commencement of this kind of offense cannot be compromised in any circumstances whatsoever. Hence there is need of critical analysis of this problem in the context of child labour laws and international perspective relating to child labour.

❖ SCOPE OF THE RESEARCH WORK

The present research work shall be conducted within the District of Aurangabad of Maharashtra region. However, references shall be taken from other parts of the state in general and nation at large for the sake of detailed analysis of the topic. A comparative study shall also be carried out by taking references of various international agencies, laws and developments in the field of child labour.

❖ REVIEW OF LITERATURE

Many people have tried to ascertain the prime causes of child labour which are poverty, illiteracy or availability of cheap labour. In their studies, no children working in various industries are given in figures, even the children working in house sector or Dhabas or domestic work are not covered their in. The object of present research is to study from Socio legal dimensions.

The present studies focus on the causes for child labour in Marathwada and especially in Aurangabad. It also focuses on poor governance and causes other than poverty which is also important for the increase of child exploitation. In this regards this study shows that, compulsory education, proper implementation of legislation by administrative authority with cooperation by

people, the problem of child labour can be eliminated by the society. The research focuses on primary data collect form various Dhabas and various domestic works and its causes in Aurangabad District.

In 1979 the first statutory committee was established at central level to examine the issue of child labour, which was known as Gurupradswamy committee. As per recommendation of this committee Government approved the Act in 1986. It forbids children being employed in the present time by bringing a number of legislation to tackle this issue.

India has enacted various laws against child labour, because many children are working in mines, in chemical factories or working with dangerous machinery. In this situation, child labours are found in certain risk, to avoid this, it is necessary to implement the law strictly. Our constitution says that, children below 14 years of age are prohibited from employment, in any kind of hazardous employment in pursuance of article 24 and international instruments. According to ILO there are 22 crore child workers in the world. In which one third are Indians, from which, 60 to 70 percent belong to villages in India. Before amendment of child labour (Prohibition and Regulation Amendment Act), demotic work was completely legal but by this act, complete prohibition has been imposed on the employment of child labour, in spite of this, India is like home for child labour.

Peoples Union for Democratic Rights V/s. Union of India- AIR 1982 SCR 1473. In this case, there were child workers in construction activity, which was dangerous work for them. At the same time it is provided by Article 24 of Indian Constitution, that children who are below14 years of age are strictly prohibited from this activity, it was open that this employment was under constitutional prohibition. Still it is in practice in certain class which is absolutely abuse of children. To avoid this situation, state should maintain the records of children who are below 14 years of age and appropriate legislation is enforced strictly against vagrancy of children. It is necessary to create an environment where the children grow and develop.

Bachpan Bachao Andolan and others V/s. Union of India and others- AIR 2011 SC 3361. This case relates to child trafficking, child abuse and where children are provided with households to work as domestic servants. It was found

that, there is absence of law to regulate the placement agencies. Sometimes parents think that in letting children go, they are doing something good for them, but this gives birth to child labour or child trafficking. It was focused by the court that, there have to be proper control of administration over the placement agencies, so that the exploitation of children is obliterated.

❖ GAPS IN EXISTING LEGAL SYSTEM

There are various laws and policies made for prohibition of child labour. Many researches have been done on this issue. This paper discus about the evolution, interventions on the issue of child labour in Aurangabad while progress has been made over the past decades, but still much progress remains in this field.

❖ RELEVANCE OF THE RESEARCH WORK

Every child has to grow in a free environment which enables him to lead a life with freedom and dignity, for that children have right to get free education, but unfortunately due to poverty and many more causes deprive them from their right, with this tomorrows world is going to be influenced. For the purpose this present study focuses on the problem of child labour.

Social, economic and cultural factors are responsible for continuous of child labour so to avoid this the government has to adopt gradual and sequential approach to address this problem for that this study will help to suggest some changes in existing legal authority to eradicate this problem up to certain level.

❖ OBJECTIVES OF THE PROPOSED RESEARCH

- To analyze the various mitigating factors of child labour.
- To study the concept and its causes.
- To study the child labour practice; especially in Aurangabad, Maharashtra.
- To study the fact, if children do not work their families will starve.
- To study various misconceptions relating to child labour.
- Child labour is a result of over-population and illiteracy.
- To know the status of children working in Dhaba, house hold sector and agriculture sector.
- To study the legal frame work available to combat problem of child labour.

❖ HYPOTHESIS

- Various global initiatives have been taken to eliminate child labour in all the forms but still it is remaining in practice.
- Aurangabad city being fastest urbanizing city has become attraction of street holders where job opportunities are of high possibilities; it gave rise to child labour.
- To study the impact of economic growth on child labour.
- To examine the effectiveness of implementation of child labour laws.
- To examine the functioning of child labour eradication machinery.

❖ RESEARCH METHODOLOGY

- Doctrinal study includes analyses of research articles, books, reports, treaties, convention statutes, mass media, newspaper, bulletin and web sites.
- The study also included empirical study for data collection. It includes necessary data collection from various sources including survey, interviews, NGO's and from personal visits to places where the children are seen to be working like Dhaba, house hold sector and likewise.

❖ EXPECTED OUTCOME

The study shall base of analyses of present position of child labour in this global era and focus on the causes of child labour other than poverty. The research, also criticize certain laws and suggest changes in present situation.

❖ PLAN OF WORK

- In the first phase of study which includes analyses, requires six months.
- In second phase it includes reviews of books, articles, newspapers. It will require five to six months.
- In third phase of study it includes data collection which may take four to five months.
- In fourth phase interviews and observations will require five months.

CHAPTER SCHEME

Chapter I: Introduction

In the first chapter of the proposed research work, the researcher intends to introduce an outline of the research subject. It gives an overview to the topic of research without elaborating on conceptual details as the same shall be discussed in the upcoming chapters. It explains the basics of research such as area of study, statement of the problem, significance, and need of study, the importance of the present topic, the objective of the study, review of available literature, hypothesis postulated, methodology used, and limitation of the study. It also intends to look into history and current status of child labour practices in India, including the social, economic, and cultural factors that contribute to the exploitation of children in various industries. The chapter shall also give a quick introduction to the Aurangabad District wherein the researcher intends to carry out her research.

Chapter II: Child Labour: An International Perspective

In order to understand the gravity of evil of child labour one should have knowledge of the global prevalence of child labour and its impact on children's physical, emotional, and social development. It requires an understanding of the international legal framework that seeks to address child labour, including the United Nations Convention on the Rights of the Child and the International Labour Organization's conventions and recommendations. The researcher shall gather knowledge of the challenges and limitations in implementing these legal frameworks, including cultural, economic, and social factors that perpetuate child labour practices. An international perspective allows for a comparison of child labour practices across different countries and regions, identification of best practices, and potential solutions to eradicate child labour globally.

Chapter III: Child Labour and Indian Legal System

In this chapter, the researcher elaborates on the concept of child, labour, child labour, and rehabilitation. It advances understanding of the legal framework at the international and national levels that aims to protect children from exploitation and abuse, including the Indian Constitution, the Child Labour (Prohibition and Regulation) Act, and related policies and programs. The knowledge of the challenges faced by the Indian legal system in enforcing these laws and protecting children's rights is essential. The topic requires a critical evaluation of the effectiveness of the legal framework and identification of potential solutions to address the issue of child labour in India.

Chapter IV: Judicial Pronouncement on Child Labour

The ground reality of menace of Child Labour can be better understood by analyzing the judicial pronouncements and underlying principles. The present chapter intends to gain knowledge of the various landmark court cases related to child labour in India. It entails an understanding of the Indian legal system and the role of the judiciary in interpreting and enforcing the laws related to child labour. Additionally, knowledge of the judicial precedents, such as the M.C. Mehta v. State of Tamil Nadu case and the Bachpan Bachao Andolan case, is necessary to evaluate the impact of judicial pronouncements on child labour practices in India. An analysis of the court's reasoning and the implications of the judgments for protecting children's rights and eradicating child labour is also essential.

Chapter V: Child Labour in Aurangabad district

This chapter takes into consideration prevalence of child labour in the Aurangabad district of Maharashtra. It looks into functioning of various industries in which children are employed, such as agriculture, manufacturing, and domestic work. It also necessitates an understanding of the social, economic, and cultural factors that contribute to child labour practices in the district. Additionally, functioning of various governmental, semi-governmental and non-governmental institution/organizations shall be evaluated to understand their

effectiveness. Similarly, an examination of the challenges and limitations in enforcing laws is also essential to identify potential solutions to eradicate child labour in Aurangabad District. Data collected shall be analyzed in this chapter and outcomes shall be discussed in accordingly.

Chapter VI: Conclusion & Suggestion

This chapter is relating to conclusion, findings and suggestions. In this chapter the conclusion would be drawn on live basis of data analyses. It would aptly justify the hypothesis and research questions on the basis of collected data.

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CONCLUDING REQUEST

Thus, in light of aforesaid discussion, justification and research potential of the topic suggested by researcher the researcher most respectfully craves to RRC of Faculty of Law, SRTM University, Nanded for kind consideration and permission to proceed with the research on this topic with or without modifications, if any as suggested by the RRC.

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